

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE
2004 FEB -4 P 1:01

BELA F. BALOGH)
Plaintiff)
)
V.) C.A. NO.
)
MARIETTE L. POIRIER, F/K/A)
MARIETTE L. BALOGH, and)
MASSACHUSETTS STATE)
CARPENTERS PENSION FUND)

04-40016

ANSWER OF THE DEFENDANT
MASSACHUSETTS STATE CARPENTERS PENSION FUND
TO SECOND AMENDED COMPLAINT FOR DECLARATORY JUDGMENT

1. The Defendant, Massachusetts State Carpenters Pension Fund (MSCPF) admits the allegations contained in paragraph 1.
2. MSCPF admits the allegations contained in paragraph 2.
3. MSCPF is without sufficient knowledge to either admit or deny the allegations contained in paragraph 3.
4. MSCPF admits the allegations contained in paragraph 4.
5. MSCPF admits the allegations contained in paragraph 5.
6. The allegations contained in paragraph 6 refer to a written document that speaks for itself.
7. The allegations contained in paragraph 7 refer to a written document that speaks for itself.
8. MSCPF admits the allegations contained in paragraph 8.
9. MSCPF admits the allegations contained in paragraph 9.

10. MSCPF denies the allegations contained in paragraph 10.

11. The allegations contained in paragraph 11 constitute conclusions of law, and as such no further responsive pleading is required.

12. The allegations contained in paragraph 12 constitute conclusions of law and as such no further responsive pleading is required.

Wherefore, the Defendant, Massachusetts State Carpenters Pension Fund, requests that the complaint be dismissed or in the alternative that judgment issue for the Defendant awarding to it costs and reasonable attorney's fees for defense of this action.

FIRST AFFIRMATIVE DEFENSE

The Complaint should be dismissed for failure to state a claim upon which relief may be granted pursuant to Federal Rules of Civil Procedure Rule 12(b)(6).

SECOND AFFIRMATIVE DEFENSE

The Plaintiff's request is barred by Federal Law and the provisions of the written Trust Document.

THIRD AFFIRMATIVE DEFENSE

The Plaintiff has failed to exhaust his administrative remedies.

MASSACHUSETTS STATE CARPENTERS
PENSION FUND
By its attorney,



James J. Grosso – BBO 213320
O'Reilly, Grosso & Gross, P.C.
1671 Worcester Road, Suite 205
Framingham, MA 01701-5400
Tel: 508/620-0055
Fax: 508/620-7655

DATED: February 3, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon the Attorney of Record for each Party by mail-hand on:

